

Inspector General

United States
Department of Defense



Contracts for the U.S. Army's Heavy-Lift VI
Program in Kuwait

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Acronyms and Abbreviations

ACC	U.S. Army Contracting Command
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
COR	Contracting Officer Representative
FAR	Federal Acquisition Regulation
GAO	Government Accountability Office
HETCO	El Hoss Engineering and Transportation Company
IG	Inspector General
QAR	Quality Assurance Representative
QASP	Quality Assurance Surveillance Plan



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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JUL 28 2009

MEMORANDUM FOR EXECUTIVE DIRECTOR, ROCK ISLAND CONTRACTING
CENTER, U.S. ARMY CONTRACTING COMMAND,
COMMANDER, DEFENSE CONTRACT MANAGEMENT
AGENCY-KUWAIT
COMMANDER, U.S. ARMY CONTRACTING COMMAND,
SOUTHWEST ASIA-KUWAIT

SUBJECT: Contracts for the U.S. Army's Heavy-Lift VI Program in Kuwait (Report
No. D-2009-096)

We are providing this report for review and comment. The Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait did not respond to the draft report; however, we considered comments from the U.S. Army Contracting Command, Rock Island Contracting Center and the Defense Contract Management Agency-International when preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. Comments from the U.S. Army Contracting Command, Rock Island Contracting Center and Defense Contract Management Agency-International were responsive. We request that the Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait provide comments on Recommendation B by August 27, 2009.

Please provide comments that conform to the requirements of DoD Directive 7650.3. If possible, send your comments in electronic format (Adobe Acrobat file only) to audros@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8905 (DSN 664-8905).

A handwritten signature in black ink, reading "Paul J. Granetto", is positioned above the typed name.

Paul J. Granetto
Assistant Inspector General
Readiness, Operations, and Support

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Results in Brief: Contracts for the U.S. Army's Heavy-Lift VI Program in Kuwait

What We Did

We evaluated whether contract oversight of the U.S. Army's Heavy-Lift VI program, which involves the use of commercial transportation services in support of Operation Iraqi Freedom, was effective.

What We Found

We identified internal control weaknesses regarding contract oversight of the Heavy-Lift VI program. The U.S. Army Contracting Command (ACC), Southwest Asia-Kuwait did not develop appropriate surveillance methods to assess contractors' compliance to performance objectives, approve contractors' quality control plans at the time of award, or perform legal reviews timely, and key contracting documents were not always available.

Since procuring contracting office responsibilities were later transferred to ACC Rock Island Contracting Center and administrative contracting office responsibilities were delegated to the Defense Contract Management Agency-Kuwait, contract oversight has improved. However, clear guidance was not in place to assist in the oversight process and a memorandum of agreement between the procuring contracting office and the administrative contracting office was needed to detail contract administration responsibilities.

Although ACC Rock Island Contracting Center and Defense Contract Management Agency-Kuwait have taken corrective actions to strengthen the administration and oversight of the Heavy-Lift VI program, DoD did not have reasonable assurance that contractors were

complying with requirements, achieved standards, and that the \$522 million spent for contractors' services represented the best value to the Government.

What We Recommend

We recommend that the Executive Director, Rock Island Contracting Center, ACC reassess surveillance methods used in the quality assurance surveillance plan, ensure contractors have an approved comprehensive quality control program, and update the contract administration functions in the delegation memoranda and the Contract Administration Delegation Matrix.

We also recommend that the Commander, Defense Contract Management Agency-Kuwait finalize guidance on contract administration for the Heavy-Lift VI program.

Additionally, we recommend that the Commander, ACC Southwest Asia-Kuwait comply with regulatory guidance regarding retention of contract files.

Management Comments and Our Responses

The Executive Director, Rock Island Contracting Center and the Deputy Commander, Defense Contract Management Agency-International provided responsive comments to the recommendations. The Commander, ACC, Southwest Asia-Kuwait did not provide comments on the draft report, dated May 5, 2009. We request the commander provide comments on the final report by August 28, 2009. Please see the recommendations table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Executive Director, Rock Island Contracting Center, U.S. Army Contracting Command,		A.1
Deputy Commander, Defense Contract Management Agency International		A.2
Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait	B	

Please provide comments by August 28, 2009.

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Introduction

Objective

The overall objective of the audit was to determine whether contracts for the transportation of materiel in support of operations in Iraq and Afghanistan were effective. Specifically, we reviewed the effectiveness of the contract oversight of the U.S. Army's use of commercial transportation services for the movement of equipment, cargo, and personnel in support of Operation Iraqi Freedom.

Background

We performed this audit as required by Public Law 110-181, "The National Defense Authorization Act for Fiscal Year 2008," section 842, "Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan," January 28, 2008. Section 842 requires thorough investigation and auditing to identify potential waste, fraud, and abuse in the performance of DoD contracts, subcontracts, and task and delivery orders for the logistical support of coalition forces in Iraq and Afghanistan. Further, section 842 requires thorough investigation and auditing of Federal agency contracts, subcontracts, and task and delivery orders for the performance of security and reconstruction functions in Iraq and Afghanistan. The audit's scope was to include the effectiveness of the Department's management and oversight of the Heavy-Lift VI program and the flow of information from contractors to officials responsible for contract management and oversight.

Heavy-Lift VI Program

In June 2005, the U.S. Army Contracting Command (ACC) Southwest Asia-Kuwait awarded three contracts (referred to as the Heavy-Lift VI program) to support the theater transportation mission. The Heavy-Lift VI program consists of three contractors that provide commercial transportation services using trucks, trailers, and buses for the movement of equipment, cargo, and personnel from designated locations within Kuwait and Iraq to designated locations throughout the theater of operations. Services performed are within a 1,000-kilometer road distance (approximately 621 miles) of Camp Arifjan, Kuwait. The Heavy-Lift VI program involves about 1,000 convoy missions on a weekly basis that are usually designated either for northbound missions to Iraq or in and around Kuwait.



Source: DoD IG Auditors, November 6, 2008.

Figure 1. Trucking Operations

The Heavy-Lift VI contracts are firm-fixed-price, indefinite-delivery, indefinite-quantity contracts and include the base year with four 1-year option periods. ACC Southwest Asia-Kuwait issued task orders against the Heavy-Lift VI contracts from July 2005 until November 2007. In November 2007, the command transferred procuring contracting office authority and

related contract files for the Heavy-Lift VI program to the U.S. Army Sustainment Command, Acquisition Center, Rock Island, Illinois,* to continue supporting the theater transportation mission. Table 1 provides a summary of contracts and the number of task orders issued for the Heavy-Lift VI program between July 2005 and August 2008.

Table 1. Heavy-Lift VI Contracts and Task Orders

Contract	Contractor	Types of Vehicles Included	Task Orders	Task Order Value (in Millions)
W912D105D0010	PWC ¹	Trucks and Trailers	60	\$274.1
W912D105D0011	IAP ²	Trucks and Trailers	75	\$247.4
W912D105D0012	HETCO ³	Buses and Baggage Trucks	62	\$171.1
Total			197	\$692.6

¹Public Warehousing Company, Kuwait.

²International American Products Worldwide Services, United States.

³El Hoss Engineering and Transportation Company, Kuwait.

Of the 197 task orders, valued at \$692.6 million, awarded for the Heavy-Lift VI program, 161 of those task orders (valued at about \$527.5 million), were issued by ACC Southwest Asia-Kuwait. Also, in November 2007, ACC Rock Island Contracting Center designated the Defense Contract Management Agency (DCMA)-Kuwait to be the administrative contracting office for the Heavy-Lift VI program.

Defense Contract Management Agency

DCMA personnel perform contract administration services for DoD. Specifically, they act on behalf of the contracting officer, as the DoD contract manager, responsible for ensuring that DoD's supplies and services are delivered on time, at projected cost, and the contractors meet all performance requirements. DCMA Iraq/Afghanistan is the contract management office for contracts awarded in the Iraq and Afghanistan area of operations. That office has a subordinate command located in Kuwait. The administrative contracting officer for the Heavy-Lift VI program is assigned to the DCMA-Kuwait office and is responsible for providing continuous on-ground Government oversight. Responsibilities also include monitoring of contractor performance and maintaining contract surveillance files. The 15th Transportation Detachment nominated the current contracting officer representative (COR) to the Heavy-Lift VI program. DCMA-Kuwait appointed the COR and delegated surveillance for the Heavy-Lift VI program. In addition, a DCMA-Kuwait quality assurance representative (QAR) works closely with the COR and provides the COR with training. Further, the QAR is responsible for ensuring the contractor complies with contract requirements.

*On October 1, 2008, the Acquisition Center was reassigned as the U.S. Army Contracting Command, Rock Island Contracting Center, Rock Island, Illinois.

Guidance

The Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) prescribe the policies and procedures for contract surveillance and oversight. Specifically, FAR Part 46, “Quality Assurance,” prescribes policies and procedures to ensure that supplies and services acquired under Government contract conform to the contract’s quality and quantity requirements. DFARS section 201.6, “Career Development, Contracting Authority, and Responsibilities,” outlines the role and responsibilities of the COR.

Review of Internal Controls

We identified internal control weaknesses regarding contract oversight for the Heavy-Lift VI program as defined by DoD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures,” January 4, 2006. DoD Instruction 5010.40 states that internal controls are the organization’s policies and procedures that help program and financial managers achieve results and safeguard the integrity of their programs. The Instruction also requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

We did not assess the individual internal control programs for the respective organizations. However, during our review we did test some of the key internal controls applicable to the effectiveness of contractor oversight for the Heavy-Lift VI program. Internal controls for contract oversight of the U.S. Army’s Heavy-Lift VI program were generally in place; however, we did identify some internal control weaknesses specific to inadequate surveillance methods for assessing contractors compliance, lack of specific guidance to assist with oversight functions, and noncompliance with document controls. During our review, DCMA-Kuwait and ACC Rock Island Contracting Center began taking immediate corrective actions to strengthen processes and to mitigate these risk areas. We describe these issues of noncompliance and controls needing improvement, as well as corrective actions taken by DCMA-Kuwait and ACC Rock Island Contracting Center in our report findings. Implementing all recommendations in this report will improve the internal controls over the effectiveness of contractor oversight. We will provide a copy of this report to the senior Army officials responsible for internal controls.

Finding A. Effectiveness of Contractor Oversight

Contracting oversight for the U.S. Army's Heavy-Lift VI program, which involves commercial transportation for the movement of equipment, cargo, and personnel in support of operations in Kuwait and Iraq, was not effective. Specifically, the U.S. Army Contracting Command, Southwest Asia-Kuwait did not:

- Develop appropriate surveillance methods to assess contractors' compliance with performance objectives, or
- Approve the contractors' quality control plans.

Since contracting office responsibilities transferred to ACC Rock Island Contracting Center and administrative contracting office responsibilities were delegated to DCMA-Kuwait, contract oversight of Heavy-Lift VI contracts has improved. However:

- DCMA-Kuwait did not have specific guidance in place to assist with oversight functions for the Heavy-Lift VI contracts, and
- The procuring contracting officer's delegation memoranda defining contract administration responsibilities to the administrative contracting officer were not always clear. Also, a memorandum of agreement detailing the procuring contracting office expected responsibilities for contract administration was not in place for the Heavy-Lift VI program.

Although DCMA-Kuwait has initiated corrective actions to strengthen processes and mitigate risk areas regarding contract oversight, DoD did not have reasonable assurance that contractors in the Heavy-Lift VI program were complying with contract requirements, achieved standards, and that the services provided represented the best value to the Government.

The procuring contracting office must reassess surveillance methods and develop a memorandum of agreement with DCMA-Kuwait that clearly defines contract administration functions. In addition, DCMA-Kuwait must develop guidance governing oversight for the Heavy-Lift VI program.

Surveillance Overview

Surveillance of contract performance is an element of contract administration and it should start upon the award of the contract and continue until contract completion to ensure contractors perform required services in compliance with contractual agreements. According to FAR Part 46, “Government contract quality assurance is required to be performed as necessary to determine that supplies or services conform to contract requirements.” It also states that the Quality Assurance Surveillance Plan (QASP) should be prepared in conjunction with the statement of work and should specify all work requiring surveillance and the method of surveillance. The QASP is an organized written document specifying the methodology to be used for surveillance of contractor performance. The QASP for the Heavy-Lift VI program was developed by ACC Southwest Asia-Kuwait.

According to the Performance Work Statement, the Government will evaluate the contractor’s performance in accordance with the QASP. The QASP is based on the premise that the Government desires to maintain a quality standard in truck and bus transportation services and provides a systematic approach to evaluate the services the contractor is required to furnish. Further, it defines how the performance will be applied, the frequency of surveillance, and the maximum acceptable defect rate.

The Performance Work Statement also requires contractors to develop and maintain an effective quality control program that, at a minimum, addresses the performance objectives identified in the QASP. The QASP states that the first major step to ensuring a self-correcting contract is to ensure that the quality control programs accepted at the beginning of the contract provide the measures needed to lead the contractor to success. Further, the contractor, and not the Government, is responsible for management and quality control actions to meet the terms of the contract. Also, contractors are required to develop and maintain an effective quality control plan to ensure services are performed, as well as develop procedures to identify and prevent defective services.

DCMA is to perform contract administration functions in accordance with the FAR, the contract terms, any interagency agreement, and its applicable regulations. The administrative contracting officer (DCMA-Kuwait) ensures contractors comply with contract and quality assurance requirements. The QAR is responsible to provide quality assurance oversight through independent examinations and reviews of contractor services and products, as well as to provide surveillance training to CORs. The COR responsibilities include performing contractor surveillance using independent examinations and reviews and coordinating results to the QAR, obtaining assurance the contractors perform the contract technical requirements, and performing inspections necessary in connection with contract performance.

Quality Assurance Surveillance Plan

ACC Southwest Asia-Kuwait did not develop appropriate surveillance methods to assess contractors’ compliance with performance objectives for the Heavy-Lift VI contracts. The QASP states that the intent of the surveillance program is to gain confidence in the contractors’ way of doing business and then adjusting the level of oversight to a point

that maintains that confidence. It further states that the surveillance approach may not be one that stays the same throughout the duration of the contracts and Government evaluators should be prepared to periodically update the surveillance approach as required. By using inappropriate surveillance methods to evaluate the performance objectives for the Heavy-Lift VI program, the Government cannot gain an adequate level of confidence in the contractors' performance.

The QASP contains five performance objectives that the contractors are to accomplish. To determine whether contractors are accomplishing the objectives, DCMA-Kuwait is to use one of three surveillance methods. Table 2 provides a summary showing whether the surveillance methods used to assess contractor performance objectives were appropriate.

Table 2. Performance Requirements

Performance Objective	Surveillance		
	Method	Criterion	Appropriate
Reports	Random sampling	Frequently recurring tasks	No
Call forwarding times	100 percent inspection	Infrequent occurrence	No
Operational availability	Random sampling	Frequently recurring tasks	No
Increased quantities	100 percent inspection	Infrequent occurrence	Yes
Documentation	Customer complaint	Per customer complaint	No

A summary of each performance objective and whether the surveillance method was appropriate follows:

- **Reports.** Using random sampling as a surveillance method to assess contractor-generated reports is not appropriate. This performance objective requires the contractor to provide accurate and complete reports as scheduled (for example, usage [daily], serious incidents [at time of incident], and personnel [quarterly]). The contract defines the criterion for surveillance as appropriate for frequently recurring tasks. However, required reports, such as serious incidents and personnel are not always frequent. Though a frequently recurring task, the usage reports are reviewed by the COR daily to ensure contractors will have the required number of vehicles on-hand to meet mission requirements. As such, we do not see a need for a random sampling approach as an appropriate surveillance method to assess this objective. Therefore, serious incidents and personnel reports should be reviewed on each occurrence instead of on a random basis and usage reports should continue to be reviewed daily.

- **Call Forwarding Times.** Using a 100 percent inspection as a surveillance method to assess call forwarding times is not appropriate. This performance objective states that contractors should have the required vehicles and drivers at their directed location on time, no later than 1 hour prior to mission start time, for pre-mission vehicle inspection. The contract defines the criterion as appropriate for tasks that occur infrequently. However, the number of missions exceeds approximately 1,000 per week and therefore, call forwarding times are not infrequent. In addition, the COR goal is to complete inspections of about 125 truck convoys per week based on available personnel and logistics. Therefore, performing a 100 percent inspection of all vehicles is not feasible; a statistical sample approach may be more appropriate.
- **Operational Availability.** Using random sampling as a surveillance method to assess operational availability is not appropriate. This performance objective requires the contractor to replace or repair disabled vehicles within 6 hours. The surveillance criterion to assess this objective is for frequently recurring tasks. However, the COR stated that she does not have any challenges with contractors having a frequent occurrence of disabled vehicles. Therefore, using a 100 percent inspection for each occurrence may be more effective.
- **Increased Quantities.** Using a 100 percent inspection as a surveillance method to assess increased quantities is appropriate. This performance objective requires the contractor to provide additional vehicles as needed within prescribed time limits. The criterion is for infrequent occurrence. Because this approach is infrequent and may involve only a few vehicles on each occurrence, the surveillance method for assessing this performance objective is appropriate.
- **Documentation.** Using customer complaint as a surveillance method to assess contractor documentation is not appropriate. This performance objective requires the contractor to provide all necessary documentation for trucks and drivers—licenses, permits, badges—to permit entry into camps, airports, seaports, and border crossings. In this scenario, if contractors arrive at their destination and are not granted access due to improper documentation and the customers complain of the delay, then DCMA-Kuwait will assess contractors' documentation for appropriateness. We do not believe using customer complaint as a surveillance method is appropriate to assess this performance objective. Contractor documentation should be validated prior to vehicle departure from contractor or Government facilities. Continuing audits on a statistical sampling basis by DCMA-Kuwait (QAR and COR) to assess contractor documentation, as well as relying on the contractors' quality control plans, is a more appropriate method.

Inappropriate surveillance methods do not ensure contractors are complying with performance objectives and achieving contract standards. The procuring contracting office should update those methods to improve the level of oversight being performed on the Heavy-Lift VI program.

Contractors' Quality Control Plans

ACC Southwest Asia-Kuwait did not approve the contractors' quality control plans. FAR Part 46 states that contractors' responsibilities include controlling the quality of supplies or services needed to meet contract performance requirements. The QASP states that the quality control program is the driver for product quality and that the contractor is required to develop a comprehensive program of inspections and monitoring actions. At a minimum, the contractor is required to develop quality control procedures that address the performance objective, standards, and performance thresholds. Quality control plans are to be delivered after contract award but prior to the beginning of the performance period.

The contracting offices at ACC Southwest Asia-Kuwait, ACC Rock Island Contracting Center, and DCMA-Kuwait could not provide supporting documentation that the contractors' quality control plans were approved. ACC Southwest Asia-Kuwait officials stated that since contracting authority and files were transferred to ACC Rock Island Contracting Center, they no longer have any remaining files on-hand to validate whether such plans were approved. Further, our review of those files obtained from ACC Rock Island Contracting Center showed no evidence of approval documentation for the quality control plans. Although DCMA-Kuwait personnel had copies of contractors' quality control plans, they did not have documentation showing approval by ACC Southwest Asia-Kuwait. Without Government approval, there is no assurance that the contractors' quality control plans conform to the Performance Work Statement for the Heavy-Lift VI program.

Throughout the audit, we met with DCMA-Kuwait officials to discuss potential issues and risks that we had identified with the QASP and contractors' quality control plans. As a result, DCMA-Kuwait personnel took steps to begin developing guidance specific to the Heavy-Lift VI program to address the QASP. Specifically, DCMA-Kuwait took steps to reassess the use of a 100 percent inspection as a surveillance method to review call forwarding times. DCMA-Kuwait officials stated that their goal was to incorporate their guidance, when completed and approved, into the Heavy-Lift VI contracts. Also, DCMA-Kuwait tasked all three contractors to update their quality control plans. By March 2009, DCMA-Kuwait had received and approved the three contractors' quality control plans.

Defense Contract Management Agency Oversight

In November 2007, ACC Rock Island Contracting Center assigned contract administration responsibility for the Heavy-Lift VI program to DCMA-Kuwait. However, DCMA-Kuwait personnel did not have clear guidance in place that would allow them to effectively implement contract oversight specific to the Heavy-Lift VI program. FAR Part 46 states that the contract administration office is to develop and apply efficient procedures for performing Government contract quality assurance actions and perform all actions necessary to verify whether services conform to contract quality requirements. DFARS Part 246, "Quality Assurance," directs that agencies of the DoD

“develop and manage a systematic, cost-effective Government contract quality assurance program to ensure that contract performance conforms to specified requirements.”

DCMA-Kuwait relied on guidance issued by the Commander, DCMA Iraq/Afghanistan, which was not specific to the Heavy-Lift VI program. That guidance, “Quality Assurance Surveillance Plan,” dated May 2008 (May 2008 DCMA Guide), provided some details on how to conduct surveillance and oversight, but it was more specific to contracts other than Heavy-Lift VI and was limited in providing details for effective oversight. Therefore, DCMA-Kuwait was limited to how it executed contract oversight for the Heavy-Lift VI program. However, command officials updated this guide in January 2009 (January 2009 DCMA Guide) and renamed it the “Theater Quality Plan,” which included the Heavy-Lift VI program for oversight responsibilities. That guide contains more detailed steps for effective oversight and includes examples of source documents needed to perform more effective oversight. Further, in January 2009, DCMA-Kuwait developed draft guidance specific to the Heavy-Lift VI program.

At the time of our review, we identified three areas that, due to the lack of clear guidance, DCMA-Kuwait needed to address. This included not having a methodology in place for applying risk levels to assess how contractors would be evaluated, not having clear and complete audit records, and a need to develop an approach for selecting contractors’ vehicles for pre-mission inspections.

Risk Levels

During our initial conversations with DCMA-Kuwait officials, they stated that they did not have a methodology in place for determining risk levels for surveillance of the contractors’ performance and were not using a tracking system to set up contractors’ surveillance schedule for monitoring performance. According to the May 2008 DCMA Guide, risk-based analyses are used to determine frequency, intensity, and means of travel to perform surveillance efforts. It also states the QAR and COR will collect and analyze data and adjust surveillance frequency in accordance with the revised risk rating. However, during our ongoing discussions with DCMA-Kuwait officials about their efforts to develop guidance specific to the Heavy-Lift VI program, they implemented actions to include procedures for assessing risk levels as well as developing a tracking system to schedule contractors surveillance based on risk. We commend DCMA-Kuwait for initiating corrective actions. Also, the January 2009 DCMA Guide included detailed steps for assessing risk.

Audit Records

Audits performed by DCMA-Kuwait to assess contractors’ contract compliance were either incomplete or not always clear. According to the May 2008 DCMA Guide, the QAR will conduct independent examinations and reviews of contractor services and products in accordance with requirements outlined in the contract. DFARS Part 246 directs DoD agencies to conduct quality audits to ensure the quality of products and services meet contractual requirements.

DCMA-Kuwait documented its examinations and reviews on DCMA Iraq/Afghanistan Heavy-Lift VI audit records. Detailed audit records were to include information such as the purpose of the audit, what was observed, the DCMA risk rating, and timeliness. We reviewed 56 audit records developed by DCMA-Kuwait QARs and the COR for the period from February through October 2008. Results were as follows:

- The purpose statements of the audits were vague and did not specifically identify what was to be accomplished. The May 2008 DCMA Guide did not provide specific instructions regarding the development of the purpose statement.
- Observations were not always detailed. The records lacked information such as vehicle identification numbers, the number and type of vehicles inspected, and deficiencies identified.
- Risk ratings were inconsistently applied by QARs and the COR. Our review showed that the QARs used a risk rating of “moderate” or “high” and the COR either used “low” or no rating was shown. DCMA-Kuwait officials acknowledged this was an oversight issue that needed to be addressed.
- Our review showed 16 audits (approximately 29 percent) were not preformed in accordance with their assigned risk ratings: high (weekly audits), moderate (biweekly audits), and low (monthly audits). Delays in performing those audits ranged from 16 to 85 days. DCMA-Kuwait officials stated this was attributed to not effectively tracking the audits.

We discussed our results pertaining to the audit records with DCMA-Kuwait officials, whereby they took steps to address the issues we identified. They began updating their audit records to ensure the observations and risk ratings were clear and complete. Also, the January 2009 DCMA Guide included updates and more details for performing audits.

Vehicle Inspections

The COR did not have a process in place for selecting contractors’ vehicles for pre-mission inspection to ensure the contractors were in compliance with contract requirements. A systematic approach was needed to select truck convoys, buses, and baggage trucks for pre-mission inspections (includes inspecting brakes, lights, and fire extinguishers). Our discussions with the COR and review of audit records showed that a process was not in place for selecting these vehicles; for example, truck convoys are individually selected and buses and baggage trucks were not inspected. The May 2008 DCMA Guide did not provide any guidance for how the QARs and COR were to manage pre-mission inspections. The QASP required pre-mission inspections of contractors’ vehicles to ensure that required vehicles were available and mission-capable (100 percent operational).

In review of the COR’s pre-mission inspection records for a 13-week period (August 2 through November 1, 2008), the number of inspections was inconsistent. The inspections ranged from 55 to 172 convoys each week. According to the COR, all northbound

convoys (about two to seven missions per day) are inspected and the remainder are individually selected by the COR support team at the beginning of each 8-hour work shift based on location and distance from Camp Arifjan, Kuwait. In September 2008, the COR established a goal to inspect at least 125 truck convoys each week. However, without proper guidance defining an approach to pre-mission inspections, there is no way to determine whether inspecting 125 truck convoys is reasonable.

In addition, as part of the COR surveillance responsibilities, the COR was not performing pre-mission inspections of El Hoss Engineering and Transportation Company (HETCO) buses and baggage trucks. DCMA-Kuwait audit records show that none of their reviews involved a physical inspection of HETCO's buses and baggage trucks to ensure that minimum vehicle standards were met. In review of mission tracking records for the period August 18 through November 3, 2008, the contractors' buses performed about 7,900 missions that covered approximately 3.5 million miles without any pre-mission inspections. At times, the QARs and COR did conduct some periodic reviews of HETCO's other requirement (such as adequate living conditions for drivers and driver documentation).

We concluded that because the volume of truck convoys was excessive (about 400–500 per week), truck convoys were individually selected for inspections based on convenience, and buses and baggage trucks (about 500–600 convoys per week) incur significant miles on a monthly basis, the COR needed to develop a better approach for performing inspections to ensure every convoy has a fair and equal chance of being selected. After continuous interactions and sharing of information, DCMA-Kuwait initiated actions to begin developing guidance to address those deficiencies. Further, in December 2008, the COR performed pre-mission inspections of HETCO's buses and baggage trucks to validate whether those vehicles were in compliance with contract requirements. Results showed 332 vehicles were inspected (287 buses and 45 baggage trucks); 45 of those vehicles were identified as having defects and did not meet contract requirements for readiness.



Source: DoD IG Auditors, November 9, 2008.

Figure 2. HETCO Bus Yard

We commend DCMA-Kuwait personnel in their efforts to improve the vehicle inspection process, but they must ensure that the COR develops a systematic approach to selecting truck convoys, buses, and baggage trucks for pre-mission inspections.

Delegation Memoranda

The procuring contracting officer's delegation memoranda defining contract administration responsibilities to the administrative contracting officer were not clear. The procuring contracting officer, ACC Rock Island Contracting Center, issued

delegation memoranda to the administrative contracting officer at DCMA-Kuwait in November 2008 that outlined some of the expected contract administration functions for the Heavy-Lift VI contracts. However, those functions were vague and needed to be updated. Also, a Contract Administration Delegation Matrix was provided, which contained FAR references (42.302 series) where the procuring contracting officer identified additional administrative functions. This matrix, dated March 2005, was designed for a previous heavy-lift program (Heavy-Lift IV), did not identify the offices involved, and contained FAR references not applicable to the Heavy-Lift VI program. The procuring contracting officer needs to update the contract administration functions in the delegation memoranda and the matrix in order to provide more detailed guidance to the administrative contracting officer in support of a memorandum of agreement.

Currently there is no formal agreement in place between the procuring contracting office and DCMA-Kuwait. As a best practice, the procuring contracting office, ACC Rock Island Contracting Center should consider establishing a memorandum of agreement with DCMA-Kuwait to ensure the success of contract administration for the Heavy-Lift VI program. It would also provide uniform guidance and interpretation of the Heavy-Lift VI contracts and regulatory requirements. FAR Subpart 42.2, "Contract Administration Services," allows the procuring contracting office to delegate contract administration services and allows for any special instructions, including any functions withheld or any specific authorization to perform functions. The memorandum should define the actions needed to coordinate and implement expected responsibilities of the procuring contracting office and DCMA-Kuwait contract administration services support that would be provided throughout the life of the Heavy-Lift VI program. For example, turnover of administrative contracting officials is high (about every 6 months) and establishing a formal agreement would ensure consistency in contract administration. Additionally, the memorandum can serve as the delegation of record for special instructions and additional delegation of functions.

Recommendations, Management Comments, and Our Response

A.1. We recommend that the Executive Director, Rock Island Contracting Center, U.S. Army Contracting Command require the procuring contracting officer:

a. Coordinate with the Defense Contract Management Agency-Kuwait administrative contracting officer to reassess the appropriateness of each surveillance method for evaluating contractors' compliance with performance objectives identified in the Quality Assurance Surveillance Plan and update the Quality Assurance Surveillance Plan in each of the Heavy-Lift VI contracts.

b. Review the Heavy-Lift VI contractors' quality control plans to ensure contractors have a comprehensive program to meet Heavy-Lift VI contracts' performance requirements.

c. Update the contract administration functions in the delegation memoranda and Contract Administration Delegation Matrix in order to provide more detailed guidance to the administrative contracting officer.

d. Consider establishing a formal memorandum of agreement with Defense Contract Management Agency-Kuwait that would detail expected responsibilities and functions of contract administration for the Heavy-Lift VI program.

U.S. Army Contracting Command, Rock Island Contracting Center Comments

The Executive Director, Rock Island Contracting Center agreed with recommendations A.1.a, A.1.b, and A.1.c. The Executive Director stated Rock Island Contracting Center will coordinate with DCMA-Kuwait and the requiring activity to reassess surveillance methods for conformance to the QASP and update the QASP in each of the Heavy-Lift VI contracts. The Executive Director also stated all three contractor's quality control plans have been approved by the Government as of March 2009. Additionally, Rock Island Contracting Center will update the Contract Administration Delegation Matrix and will review the functions in the delegation memoranda.

The Executive Director, Rock Island Contracting Center disagreed with Recommendation A.1.d stating he considered establishing a formal Memorandum of Agreement but the use of individual contract administration delegation is more efficient and effective.

Our Response

The Executive Director, Rock Island Contracting Center comments were responsive. Though the Executive Director, Rock Island Contracting Command disagreed with Recommendation A.1.d, we found his comments to be responsive. Therefore, no additional comments are required.

A.2. We recommend that the Commander, Defense Contract Management Agency-Kuwait finalize guidance on contract administration for the Heavy-Lift VI program that is consistent with the January 2009 Defense Contract Management Agency Guide. For example, ensure that the guidance contains:

a. A methodology for applying risk levels to assess how contractors will be evaluated.

b. Procedures that ensure audit records' purposes, observations, and risk ratings are clear and complete.

c. A systematic approach for selecting truck convoys, buses, and baggage trucks for pre-mission inspections.

Defense Contract Management Agency-Kuwait Comments

The Deputy Commander, DCMA International provided the Commander, DCMA-Kuwait comments. The Deputy Commander agreed with Recommendations A.2.a, A.2.b, and A.2.c. The Deputy Commander stated: the DCMA Middle East-Kuwait Theater Quality Plan will be used as the methodology for applying risk levels; DCMA-Kuwait will ensure that audit records, observations, and risk ratings are done in a systematic manner by following DCMA guidance as provided for in the Theater Quality Plan; and DCMA-Kuwait will use the contract QASP in concert with the Theater Quality Plan to refine the approach and schedule for pre-mission inspections and continue to provide oversight on pre-mission inspections, contractor engagement, COR monitoring, and DCMA auditing of the process.

Our Response

The Deputy Commander, Defense Contract Management Agency-International comments are responsive. No additional comments are required.

Finding B. Adequacy of Contract Files

The U.S. Army Contracting Command, Southwest Asia-Kuwait did not always ensure that Heavy-Lift VI contracts' task orders were reviewed by legal counsel prior to award and did not maintain adequate contract documentation to provide a history that supported contract actions.

As a result, DoD did not have reasonable assurance that commercial transportation services for movement of equipment, cargo, and personnel totaling as much as \$522 million:

- complied with terms set forth in the program's performance work statements,
- were valid requirements, and
- were received and represented the best value to the Government.

Since contracting office responsibilities were transferred to ACC Rock Island Contracting Center in November 2007, contracting officials have ensured timely legal reviews and are maintaining complete contract files supporting acquisition actions for the Heavy-Lift VI program. In addition, contract documentation and files have significantly improved since DCMA-Kuwait was delegated administrative contracting office responsibilities in November 2007.

Although ACC Rock Island Contracting Center and DCMA-Kuwait have effectively corrected some key internal control deficiencies specific to legal reviews and contract documentation for the Heavy-Lift VI program, ACC Southwest Asia-Kuwait must comply with contracting acquisition policies for contracts under its purview.

Federal Acquisition Regulation

FAR Part 4.8, "Government Contract Files," requires contract files to "constitute a complete history of the transactions." Contracting offices are to establish files containing the records of all contractual actions that are to be sufficient to constitute a complete history of the transaction for the purpose of providing a complete background as a basis of informed decisions, supporting actions taken, and providing information for reviews and investigations. Contract files should include evidence of legal reviews, invoices, and quality assurance records.

Contract Documentation

ACC Southwest Asia-Kuwait did not maintain adequate documentation to provide a history that supported contract actions. Required legal reviews for task orders were not always performed or were completed after the task orders were approved. Also, ACC Southwest Asia-Kuwait did not maintain complete contract documentation to show that contract oversight was being performed. However, since contracting authority was transferred to ACC Rock Island Contracting Center, legal reviews were being performed timely and the command, along with DCMA-Kuwait, has taken steps to retain key contracting documentation.

Legal Reviews

Required legal reviews of individual task orders were not always performed or they were performed after task orders were awarded to the contractors. The ACC Southwest Asia-Kuwait Acquisition Guide requires proposed contract actions expected to result in awards of \$300,000 or more to undergo a legal review. At times, contracting officials requested legal reviews and received approvals through memoranda from their Office of General Counsel. Of the 109 task orders that required a legal review, there were 70, valued at about \$336.6 million, in which such a review was not performed. Also, there were 22 task orders in which a legal review was approved after the task orders were issued. Those task orders were valued at about \$71 million. In review of task order files, the contracting officer at ACC Southwest Asia-Kuwait at times inserted a memorandum in the files that stated that they were not able to get a legal review of task orders due to legal personnel providing little to no legal support.

During our visit to ACC Southwest Asia-Kuwait, officials were not able to provide rationale for the lack of reviews since the Heavy-Lift VI contract files had been transferred to ACC Rock Island Contracting Center and none of the contracting officials who had been associated with Heavy-Lift VI contracts were still in the Kuwait area of operations.

Since DCMA-Kuwait was delegated as the contracting administrative office in November 2007, the condition of the files has significantly improved. The QAR and COR, who now share this responsibility, are meeting QASP requirements for maintaining contract files. The QAR and COR were maintaining a surveillance folder that included weekly inspection reports of contractors' vehicles, audits assessing contractors' performance, and records of scheduled contractors' meetings. DCMA-Kuwait efforts in maintaining a comprehensive surveillance folder results in greater assurance that contract oversight and surveillance for the Heavy-Lift VI program is being conducted.

Key Contracting Documents

Many of the key contracting documents such as requirements, receiving reports, and invoices that were needed to support contract task orders were either missing or not signed. We identified 150 task orders with an estimated value of \$522 million that were affected. A summary of our review is as follows:

- 79 task orders, valued at about \$330 million, were missing requirements;
- 49 task orders, valued at about \$306 million, were missing receiving reports;
- 1 task order, valued at about \$66,000, had a receiving report that was not signed;
- 50 task orders, valued at about \$301 million, were missing invoices;
- 58 task orders, valued at about \$95 million, had invoices that were not signed.

In our discussions with officials at ACC Southwest Asia-Kuwait about the issues identified, they stated that they were aware of the issues. The DCMA-Kuwait officials also stated that the Heavy-Lift VI contract files in question were generated prior to their arrival to Kuwait and transferred to ACC Rock Island Contracting Center. Further, they mentioned that none of the associated contracting officials who could explain this deficiency were still in the Kuwait area of operations.

Because some of the key supporting documents were missing or not signed, we were not able to determine whether valid requirements existed, services were performed, and if the Government was properly billed. Proper retention of key supporting documents for contract task orders for historical information is essential in ensuring that contract administration of the Heavy-Lift VI program was effective. Due to the number of documents missing or not signed, we plan to perform a future review of the billing and payment process for these contracts.

Since ACC Rock Island Contracting Center was designated procuring contracting office responsibility, the command has issued 36 task orders during our review (November 2007–August 2008). For those 36 task orders, the command has done a good job in ensuring required legal reviews on a timely basis, as well as signing and retaining key documents such as requirements, receiving reports, and invoices.

Conclusions

Based on the actions taken by ACC Rock Island Contracting Center and DCMA-Kuwait, we believe they have taken the necessary steps to reduce the risk and mitigate issue areas pertaining to legal requirements and document controls. We commend ACC Rock Island Contracting Center for its efforts to perform timely legal reviews and the retention of key contracting documents. We also commend DCMA-Kuwait for its efforts to document and retain contract files needed to document the surveillance of the Heavy-Lift VI program. However, ACC Southwest Asia-Kuwait must strengthen its internal controls regarding contract files.

Recommendation

B. We recommend that the Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait comply with Federal Acquisition Regulation Part 4.8, “Government Contract Actions,” regarding the retention of sufficient contract files that would constitute a complete history for contracts under its purview.

U.S. Army Contracting Command Southwest Asia-Kuwait Comments Required

The Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait did not comment on the recommendation. We request that the Commander, U.S. Army Contracting Command, Southwest Asia-Kuwait provide comments in response to the final report by August 28, 2009.

Appendix. Scope and Methodology

We conducted this performance audit from July 2008 through July 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We performed this audit as required by Public Law 110-181, “The National Defense Authorization Act for Fiscal Year 2008,” section 842, “Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan.” Specifically, we focused on the effectiveness of contractor oversight performed by the procuring contracting offices at ACC Southwest Asia-Kuwait and ACC Rock Island Contracting Center, and the administrative contracting office at DCMA-Kuwait.

We reviewed contract files pertaining to the three Heavy-Lift VI contracts and the 197 task orders, valued at \$692.6 million, issued by ACC Southwest Asia-Kuwait and ACC Rock Island Contracting Center. We also reviewed contract files maintained at DCMA-Kuwait. We reviewed guidance issued by DCMA Iraq/Afghanistan, the Principal Assistant Responsible for Contracting-U.S. Army Central Command, and DCMA-Kuwait to determine whether sufficient guidance existed.

We interviewed contracting officials pertaining to various aspects of providing contract administration and oversight for the Heavy-Lift VI program at ACC Southwest Asia-Kuwait, ACC Rock Island Contracting Center, and DCMA-Kuwait. We also interviewed personnel from the U.S. Central Command, U.S. Army Central Command, U.S. Army Materiel Command, DCMA-International, 408th Contract Support Brigade, 311th Expeditionary Sustainment Command, and the 406th Trailer Transfer Detachment.

We limited our audit to reviewing the effectiveness of contract oversight of the U.S. Army’s use of commercial transportation services for the movement of equipment, cargo, and personnel in support of Operation Iraqi Freedom.

Use of Computer-Processed Data

We used computer processed data to perform this audit. Specifically, we used contract documentation from the Procurement Desktop Defense system and Procurement Automated Data and Document System. We did not test the reliability of these systems because our audit was of the contract oversight process and not on the accuracy of the contract information provided by the procuring contracting officer. Our audit focused on the contracting offices’ maintaining adequate contract documentation in support of the Heavy-Lift VI program. Therefore, we believe not testing the reliability of computer processed data will not affect the results of our audit.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) and the Department of Defense Inspector General (IG) have issued two reports discussing contractor oversight on service contracts in support of contingency operations. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

GAO

GAO Report No. GAO-04-854, “Military Operations: DoD’s Extensive Use of Logistics Support Contracts Requires Strengthened Oversight,” July 19, 2004

DoD IG

DoD IG Report No. D-2006-010, “Contract Surveillance for Service Contracts,” October 28, 2005

Executive Director, Rock Island Contracting Center Comments



REPLY TO
ATTENTION OF:

UNCLASSIFIED
DEPARTMENT OF THE ARMY
Rock Island Contracting Center
1 ROCK ISLAND ARSENAL
ROCK ISLAND, IL 61299-6500

MAY 29 2009

CCRC

MEMORANDUM FOR INSPECTOR GENERAL DEPARTMENT OF DEFENSE, 400 ARMY
NAVY DRIVE, ARLINGTON, VIRGINIA 22202-4704

SUBJECT: DoDIG Draft Audit Report, Review of Contracts for the
U.S. Army's Heavy-Lift VI Program in Kuwait

1. The Rock Island Contracting Center has reviewed subject
report. Our comments are attached.

2. The POC is [REDACTED]

ENCL


JAMES G. LOEHL
Executive Director
Rock Island Contracting Center

UNCLASSIFIED

**DoDIG Draft Report:
Review of Contracts for the U.S. Army's
Heavy-Lift VI Program in Kuwait**

Finding A: Effectiveness of Contractor Oversight

Recommendation A1: We recommend that the Executive Director, Rock Island Contracting Center, U.S. Army Contracting Command require the procuring contracting officer:

a. Coordinate with the Defense Contract Management Agency-Kuwait administrative contracting officer, to reassess the appropriateness of each surveillance method for evaluating contractors' compliance with performance objectives identified in the Quality Assurance Surveillance Plan and update the Quality Assurance Surveillance Plan in each of the Heavy-Lift VI contracts.

Command Comment: Concur. RICC will coordinate with DCMA-Kuwait and the requiring activity to reassess surveillance methods for conformance to the QASP, and update the QASP in each Heavy Lift VI contract. Estimated date of completion is 30 Sep 09.

b. Review the Heavy-Lift VI contractors' quality control plans to ensure contractors have a comprehensive program to meet Heavy-Lift VI contracts' performance requirements.

Command Comment: Concur. However, this is no longer an issue as all three contractor's quality Control Plans have been approved as of March 2009 as noted on page 8 of the audit.

c. Update the contract administration functions in the delegation memoranda and Contract Administration Delegation Matrix in order to provide more detailed guidance to the administrative contracting officer.

Command Comment: Concur. RICC is in process of updating the Delegation Matrix and will review the functions in the delegation memoranda. Estimated date of completion is 30 Sep 09.

d. Consider establishing a formal memorandum of agreement with Defense Contract Management Agency-Kuwait that would detail expected responsibilities and functions of contract administration for the Heavy-Lift VI program.

Command Comment: Nonconcur. RICC considered establishing a formal MOA, but feel use of individual contract administration delegations is more efficient and flexible.

Deputy Commander, Defense Contract Management Agency International Comments



IN REPLY
REFER TO DCMAI

DEFENSE CONTRACT MANAGEMENT AGENCY
DEFENSE CONTRACT MANAGEMENT AGENCY INTERNATIONAL
6359 Walker Lane, Suite 220
Alexandria, Virginia 22310-3259

Date: 15 Jun 2009

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE,
PROGRAM DIRECTOR, READINESS, OPERATIONS,
& SUPPORT

SUBJECT: Response to Draft Report, DoD Project No. D2008-D000LH-0250, Review
of Contracts for the US Army's Heavy-Lift VI Program in Kuwait

In accordance with your request of 5 May 2009, we have reviewed the above draft report for DCMA Kuwait, Recommendation A.2 and provide our comments below.

A.2: "We recommend that the Commander, DCMA Kuwait finalize guidance on contract administration for the Heavy-Lift program that is consistent with the January 2009 DCMA Guide. For example, ensure that the guidance contains:

a. A methodology for applying risk levels to assess how contractors will be evaluated.

Concur: The guidance that will be promulgated is that DCMA Middle East-Kuwait will use the DCMA Middle East-Kuwait Theater Quality Plan (TQP) as the methodology for applying risk levels. However, it is important to note that the level of risk associated with any requirement is dependent on the potential for failure and impact to life, safety, health, environment, and mission. The DCMA Risk Rating Chart is a tool to assist in determining risk rating. Implementation of a successful surveillance strategy depends on the level of risk identified and the measures applied to mitigate potential impact. Consequence is based strictly on the chart definition from the DCMA Middle East-Kuwait TQP. The Theater Quality Assurance Representative (TQAR) or designee(s) will determine the consequence number for all service examinations. Likelihood is determined by the QAR and is based on data collected and analyzed per paragraph 5.3 Service Examination Frequencies.

b. Procedures that ensure audit records purposes, observations, and risk ratings are clear and complete.

Concur: DCMA Kuwait will ensure that audit records, observations, and risk rating is done in a systematic manner by following DCMA Guidance as provided for in the TQP. Data will be collected on a daily and weekly basis; the data will then be analyzed for trends, and retained electronically in a common area. Specifically, weekly meetings will be held with the contractors, COR, and DCMA. These meetings will use pareto charts to review PWS requirements and to meet PWS reporting requirements. Findings positive and negative will be rolled up into a monthly quality review and will be presented to the contractor. The weekly meetings will also help the CORs to identify areas that need to be audited more thoroughly on a daily basis.

Historically, contractors adjust their audits to address negative trends identified through these types of meetings. The data gathered will be entered and tracked via Excel spreadsheet, and analyzed in accordance with the TQP. As discussed in previous responses, risk ratings have been accomplished in accordance with the TQP.

c. A systematic approach for selecting truck convoys, buses, and baggage trucks for pre-mission inspections.

Concur: DCMA Kuwait will use the contract quality assurance surveillance plan (QASP) in concert with the TQP to refine our approach and schedule for pre-mission inspections. Currently, approximately 100% of Northbound missions and 85% of local missions are checked daily by the contractor, COR, or DCMA. Aside from the unclassified documentation, a classified document captures daily missions. This classified document will also be used by the CORs to plan their inspection schedules. Together with the QASP and TQP, DCMA Middle East- Kuwait will continue to provide oversight on pre-mission inspections—contractor engagement, COR monitoring, and DCMA auditing of the process. This will be a continuous process.

My point of contact for this action is [REDACTED]


SCOTT A. BLANK
Deputy Commander

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Inspector General Department of Defense

